IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.5792 OF 2004

Smt. Ambutai S. Dabhade & Ors. ...Petitioners.
Vs.
Union of India & Ors. ...Respondents.

....

Mr.A. P. Vanarse with Mr. J. M. Tanpure for the Petitioners.
Mrs. S. V. Bharucha with Mr. D.A. Dubey & Mr. Y. S. Bhate i/b. Mr. S.S. Sarkar for the Respondents.

.....

CORAM : F.I. REBELLO, J. AND
DR.D.Y.CHANDRACHUD, J.

February 8, 2006.

P.C.

It is the case of the Petitioners that they are engaged as Short Duty Staff (Short Duty Postal Assistants) after their superannuation/retirement. In the Original Application, they have set out the period served by them as SDPA.

The Learned Tribunal by the order dated 30th December 2002 was pleased to direct that the applicants would be entitled to the relief as stated with effect from 8th April 2002. If the claim of the Petitioners is considered as set out in the Original Application, none of them was on duty in the year 2002 and consequently, the question of they getting any benefit under the order would not

arise. One of the original applicants S.S. Dabhade filed a Review. The issue only pertains to the date of the representation. For the view to be taken, the date of the representation would really not be material.

Earlier, similarly situated staff had filed an Original Application which was allowed by the Tribunal. Aggrieved by that order, the Department had preferred a petition before this Court being Writ Petition No.3898 of 2001 which came to be disposed of by an order dated 30th August 2001. The order of the Tribunal issuing directions to pay the staff at the rate set out therein was not interfered with. It is based on this judgment that the Petitioners have moved this Court.

The Respondents have filed their reply contending that the circular relied upon by the Petitioners would not be applicable and that having worked out the dues, nothing is due and payable.

In so far as the circular is concerned, once the Division Bench of this Court by the order of 30th August 2001 had held in favour of similarly situated employees, the Respondents as a

model employer ought to have applied the same benefits to all those who were similarly situated. The Apex Court has also frowned on the practice of public bodies in respect of their employees for the work done, raising a challenge on the ground of limitation. In these circumstances, the impugned order of Maharashtra Administrative Tribunal, will have to be modified to the extent that the direction to pay them from 8th April 2002 is set aside and the Petitioners would be entitled to pay for the period actually worked by them. The entire exercise of payment will be completed within three months from today. Rule made absolute accordingly. There shall be no order as to costs.

(F.I. Rebello, J.)

(Dr. D.Y. Chandrachud, J.)